IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 132 OF 1992

The Employees State Insurance
Corporation ..Appellants

versus

W.I.E. Engineering Pvt. Ltd. ..Respondents

Mr. R. M. Jaykar i/b. M/s. M. V. Jaykar for the Appellants.
None for the Respondents.

CORAM : D. G. DESHPANDE,J.

DATE : 5TH APRIL,2005

ORAL ORDER :

1. Heard counsel for the Appellants. Nobody is present for the respondents, though served.

2. The only question involved in this case is whether overtime paid to the employees of the respondents amount to wages and whether the respondents can be held liable as per the notice of demand. Employees Insurance Court, Pune, gave finding against the present appellants and hence this Appeal.

3. ESI Court, Pune, while coming to the aforesaid conclusion relied upon the judgment of Calcutta High Court reported in 1979 LAB I.C.852. Mr. Jaykar pointed out that there is a judgment of the Supreme Court reported in **1997 (2) Labour Law Journal page 700 Indian Drugs & Pharmaceuticals Ltd. etc. vs. Employees State Insurance Corporation etc., decided on 6th November, 1996,** and after considering the different conflict judicial opinions on the aforesaid point, ultimately came to the conclusion that overtime wages are wages within the meaning of Section 2(22) of Employees State Insurance Act, 1948. In view of this judgment, the view taken by the ESI Court, Pune is not proper. Therefore, this appeal is allowed. The impunged order is set aside. Application filed by the respondents before the ESI Court is dismissed. Since nobody is present for the respondents, no order as to costs.

5.04.2005 (D.G. DESHPANDE, J.)